

1 CRAIG H. MISSAKIAN (CABN 125202)
U.S. Attorney for the Northern District of California

2 RAVI T. NARAYAN (CABN 331858)
3 Acting Chief, Criminal Division

4 LORINDA I. LARYEA (DCBN 99769)
Acting Chief, Fraud Section

5 EVAN SCHLOM (DCBN 1028758)
6 Trial Attorney
Fraud Section, Criminal Division

7 950 Constitution Avenue, NW
8 Washington, D.C. 20530
Telephone: (202) 514-2000
9 FAX: (202) 514-3708
Evan.schlom@usdoj.gov

10 Attorneys for United States of America

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
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16 UNITED STATES OF AMERICA,)	Case No. CR 24-00329 CRB
)	
17 Plaintiff,)	[PROPOSED] ORDER PURSUANT TO FEDERAL
)	RULE OF EVIDENCE 502(d)
18 v.)	
)	
19 RUTHIA HE and DAVID BRODY,)	
)	
20 Defendant.)	
)	

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23 THIS CAUSE is before the Court upon the Government's Motion for Entry of an Order
24 Pursuant to Federal Rule of Evidence 502(d) and the Stipulated Protective Orders [ECF Nos. 38 and 149]
25 entered in this matter.

26 Having considered the Motion, and for good cause shown, it is hereby **ORDERED** that:
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1. The United States Filter Team¹ is authorized to release to Defendants He and Brody the following Potentially Protected Material (“PPM”)² that are currently in the possession of the United States Filter Team over which Done Global Inc. and/or Done Health P.C. (together, “Done”) may hold a privilege or protection (the “Done PPM”):
 - a. Approximately 374 PPM items identified on a phone associated with Nikita Mercado;
 - b. Approximately 205 PPM WeChat audio items identified on an iPhone 14 associated with Defendant He;
 - c. Approximately 9,722 PPM items identified on an iPhone 12 associated with Defendant He;
 - d. Approximately 6,893 PPM items identified on a phone associated with Haley Zhu; and
 - e. Any future identified PPM for which Done may be a privilege holder.
2. The United States Filter Team will not release to the Prosecution Team or any other party the Done PPM, except as authorized by the Court or expressly permitted by Done.
3. All materials produced by the Filter Team shall be designated with a word mark “Produced Pursuant to FRE 502(d) Order.” Before using any of the Done PPM addressed by this motion: (1) at trial; (2) in public pre-trial proceedings; or (3) in a manner that may lead otherwise to public disclosure, a party shall give three (3) days’ notice prior to any such intended use to: (1) counsel for Done; (2) their co-defendant; and (2) the Prosecution Team. If Done does not consent to a party’s use of the Done PPM, that party may file a motion with the Court seeking authorization to use the material.

¹ The United States Filter Team may not share a first-level supervisor with anyone on the investigative/prosecution team (the “Prosecution Team”). Any supervisor involved in the Filter Team’s review will be walled off from the underlying investigation.

² “Potentially Protected Material” is discovery material that is potentially protected from disclosure by the attorney-client privilege, work-product doctrine, or any other legally recognized privilege or protection. This includes, but is not limited to, material over which a potential privilege holder has asserted a specific claim of attorney-client privilege, work-product doctrine, or any other legally recognized privilege or protection, but over which a Court has not yet ruled.

- 1 4. Pursuant to Federal Rule of Evidence 502(d), the attorney-client privilege and other
2 privileges or protections are not waived by disclosure connected with the litigation pending
3 before the Court, nor constitute waiver in any other federal or state proceeding. Nothing in
4 this Order precludes Done from asserting privilege claims over the disclosed materials in
5 this proceeding or any future proceedings in federal or state court.
- 6 5. The Government reserves its rights to contest Done's privilege assertions over the Done
7 PPM at any time. However, the United States Filter Team's production of Done PPM to
8 the Defendants pursuant to this Order will not be construed as a waiver as to the
9 Government or any other party, and the Government agrees that it will not claim the United
10 States Filter Team's production of Done PPM to Defendants operated as a waiver.
- 11 6. The Done PPM shall be subject to the Stipulated Protective Orders [ECF No. 38 and 149].

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13 **IT IS SO ORDERED.**

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15 Dated:

HON. CHARLES R. BREYER
United States District Judge